

**NURSING BOARD[655]**

**Adopted and Filed**

**Rule making related to waivers**

The Board of Nursing hereby amends Chapter 15, “Waiver and Variance Rules,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 17A.9A.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 17A.9A.

*Purpose and Summary*

During the 2020 Legislative Session, the Legislature passed 2020 Iowa Acts, House File 2389, which made various amendments to Iowa Code chapter 17A. In section 10 of House File 2389, Iowa Code section 17A.9A was amended to remove references to “variances,” and the Iowa Code section now only uses the term “waiver” throughout. This rule making updates the Board’s waiver rules to similarly remove references to “variances” and only use the term “waiver.”

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 18, 2020, as **ARC 5282C**. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Board on January 20, 2021.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 655—Chapter 15.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rule making will become effective on March 31, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend **655—Chapter 15**, title, as follows:

**WAIVER AND VARIANCE RULES**

ITEM 2. Amend rule 655—15.1(147,ExecOrd8,78GA,ch1176) as follows:

**655—15.1(147,ExecOrd8,78GA,ch1176) Definition.** For purposes of this chapter, a “waiver ~~or variance~~” means action by a division board, which suspends in whole or in part the requirements or provisions of a rule as applied to an identified person on the basis of the particular circumstances of that person. ~~For simplicity, the term “waiver” shall include both a waiver and a variance.~~

ITEM 3. Amend rule 655—15.4(147,ExecOrd8,78GA,ch1176), introductory paragraph, as follows:

**655—15.4(147,ExecOrd8,78GA,ch1176) Criteria for waiver ~~or variance~~.** In response to a petition completed pursuant to rule 655—15.6(147,ExecOrd8,78GA,ch1176), a division board may in its sole discretion issue an order waiving in whole or in part the requirements of a rule if the board finds, based on clear and convincing evidence, all of the following:

[Filed 2/3/21, effective 3/31/21]

[Published 2/24/21]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/24/21.